IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE A.K.BASHEER

FRIDAY, THE 5TH OCTOBER 2007 / 13TH ASWINA 1929

WP(C).No. 19991 of 2004(E)

PETITIONER:

V.DIVAKARAN, ASSISTANT STORE KEEPER
GRADE II, K.S.R.T.C., KARUNAGAPPALLY.

BY ADV. SMT.I.SHEELA DEVI

RESPONDENTS:

KERALA STATE ROAD TRANSPORT CORPORATION,
REPRESENTED BY ITS MANAGING
DIRECTOR, CHIEF OFFICE, THIRUVANANTHAPURAM.

BY ADV. SRI. K.PRABHAKARAN
SRI.K.PRABHAKARAN, SC, K.S.R.T.C.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 05/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

Ext.P1: True copy of the Notification dated 30.3.1989 of the respondent.

Ext.P2: True copy of the rank list No.PLC2.22413/90 published on 25.3.91 by the respondent.

Ext.P3: True copy of the Order No.PLC2-065069/94 dated 15.10.94 of the respondent.

Ext.P4: True copy of the terms and condition for the appointment as A.S.K.Grade 11 No.PLC2-064281/96 dated 26.9.1997 from the respondent.

Ext.P5: True copy of the communication No.12544/A3/99/Tran. dated 3.12.1999 from the Government Secretary to a similarly placed person.

Ext.P6: True copy of the judgment in O.P.30296/02.

Ext.P7: True copy of the order No.PLC.2/026704/99 dated 12.12.2003 passed by the respondent.

RESPONDENT'S EXHIBITS:

Ext.R1(a): True photocopy of the proceedings dated 12.12.03.

Ext.R1(b): True photocopy of Annexure II of the Grade Promotion Rules.

// True copy //

P.A. to Judge

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A.K.BASHEER, J.

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W.P.(C)No.19991 OF 2004

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Dated this the 5th day of October 2007

JUDGMENT

Petitioner is presently working as Assistant Store Keeper Grade-II under the respondent/Kerala State Road Transport Corporation. According to the petitioner, he along with some others who were working as Work Assistants had accepted the post of Assistant Store Keeper pursuant to a selection process held by the Corporation in 1990-1991.

2. It is on record that the Corporation had conducted a written test for selection to the post of Assistant Store Keeper Grade II from among various categories of employees who possessed the requisite qualification for the post in question. It is also the admitted position that the petitioner and some others who participated in the selection process were included in the select list. Thereafter, the Corporation had elicited the willingness of the selected candidates for placement. Petitioner along with several others had accepted the offer and they were posted as Assistant Store Keeper

Grade II. The terms and conditions for the post as Assistant Store Keeper are incorporated in Annexure II of Ext.P4.

3. Grievance of the petitioner is that by accepting the post of Assistant Store Keeper Grade II he had lost not only the benefit of grade promotion; but his salary and other allowances have also been considerably reduced.

4. But the stand of the Corporation is that petitioner along with the others had accepted the offer with their eyes wide open. They knew the terms and conditions attached to the offer. They had been working in the post since 1997. It is now too late for them to raise the contention that they had lost out in the bargain. Sri.K.Prabhakaran, Standing Counsel for the Corporation points out that the only relief that can be sought for by the petitioner is regularisation of his pay in terms of Rule 37(b) Part I KSR which the Corporation is prepared to do without any delay.

5. The above contention raised by the Corporation cannot be held to be unjust or unsustainable. But as rightly pointed out by the learned counsel for the petitioner, clause A

in Annexure II of Ext.P4 stipulates that appointment would be purely provisional and subject to the approval of the Kerala Public Service Commission. Learned counsel submits that the Commission has not so approved the provisional appointment of the petitioner, and therefore he is liable to be reverted back to his original cadre. The Corporation is bound to abide by the above clause in Annexure II which means that petitioner will have to be sent back to his original cadre. It is the contention of the petitioner that in that eventuality petitioner would be entitled to get Grade promotion and all other attendant benefits.

6. Having regard to the entire facts and circumstances and having perused the materials on record, I am satisfied that the writ petition can be disposed of with the following directions: The Corporation shall either regularise the pay of the petitioner in terms of Rule 37(b) Part I KSR or in the alternate petitioner shall be reverted back to his original cadre, if his appointment has not been approved so far by the Commission as stipulated in Clause A of Annexure II to

Ext.P4. Needless to mention that in the event of occurrence of the latter option, petitioner will be entitled to get all the attendant benefits. This shall be done as expeditiously as possible, at any rate, within three months from the date of receipt of a copy of this judgment. Necessarily the Corporation shall afford sufficient opportunity to the petitioner to be heard before any decision is taken in the matter.

Writ petition is disposed of as above.

(A.K.BASHEER, JUDGE)

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